



May 20, 1999

Mr. Scott Fawcett
Legal Counsel
Comptroller of Public Accounts
111 East 17th Street, LBJ State Building
Austin, Texas 78774-0100

OR99-1403

Dear Mr. Fawcett:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124265.

The Comptroller of Public Accounts (the "comptroller") received an open records request for "anything 'in my file' that may have prompted" a comptroller audit of the requestor. You have submitted a single document to this office as being responsive to the request and seek to withhold this record pursuant to the "law-enforcement" exception, section 552.108(a) of the Government Code.

Section 552.108(a)(1) provides that information held by a law enforcement agency that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure if release of the information would interfere with the detection, investigation, or prosecution of crime. The comptroller is a law enforcement agency for purposes of administering the Tax Code. *A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 678-679 (Tex. 1995). In *A&T Consultants*, the court agreed that the comptroller uses audits to further his law enforcement objectives.

You explain that the information you submitted to this office as responsive to the request involves the comptroller's decision to audit the requestor's business. As we understand from the information before us, however, the comptroller has completed the audit of the requestor's business. Assuming such is the case, we conclude that the release of the information at issue would not interfere with the comptroller's audit of the requestor. We also conclude that you have not adequately demonstrated in this instance how the release of the information at issue would interfere with future audits conducted by the comptroller. The requested information therefore must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/eaf

Ref.: ID# 124265.

encl. Submitted documents

cc: Mr. Harvey Blackson
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(w/o enclosures)

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